



STATE-OWNED LANDS PROJECT # 792-704-001

Department of Behavioral Health and Developmental Services (DBHDS)/Eastern State Hospital

TIMBER SALE CONTRACT
PINE THINNING

THIS AGREEMENT, made and entered into this ____ day of _____, 2019, by and between the Commonwealth of Virginia, Department of Forestry hereinafter called the Department, and _____, of _____, _____, Virginia, _____ hereinafter called the Purchaser.

WITNESSETH THAT:

ARTICLE I

- (1) The Department and the Commonwealth of Virginia (DBHDS)/Eastern State Hospital agree to sell and the Purchaser agrees to buy all standing timber designated for cutting on approximately 42 acres found on the property of Eastern State Hospital. The area for harvest is shown on the attached map (Attachment A). ALL MERCHANTABLE TIMBER MARKED FOR REMOVAL WITH AN ORANGE/RED BAND ARE SCHEDULED FOR HARVEST IN UNITS 1, 4 & 5. **TIMBER NOT TO BE HARVESTED IN UNIT 2 shall be the healthiest, tallest, largest and best formed trees and will be retained as crop trees to accumulate future volume growth. These residual crop trees will be spaced out uniformly to approximately 70 to 75 trees/acre (retaining an average density of 75 square feet of basal area), and additional selection of trees to be left is marked with a red band at DBH along the southeastern boundary of Unit 2 close to a building and a parking area. Selected crop trees will be protected from damage during thinning activities.** Otherwise, all other timber shall be felled and utilized to the highest merchantable standards. The harvest area is located on DBHDS/Eastern State Hospital property located at, 4601 Ironbound Road, Williamsburg, Virginia, lands that are owned by the Commonwealth of Virginia and being managed by the Virginia Department of Forestry. The volume is estimated to be approximately **1,246.73** tons of mixed pine and hardwood pulpwood, and **164,942** board feet of pine and hardwood sawtimber. The volumes are only estimates and not guaranteed.
- (2) The Purchaser's stumpage payment shall be rendered on the actual and documented volume removed. Stumpage checks made payable to the "Treasurer of Virginia" will be submitted once weekly. Documentation of loads (wt. or volume records) will accompany all stumpage checks. The Purchaser's agrees to pay the Department for this timber a price of _____ per ton all pine pulpwood, _____ per ton for all hardwood sawtimber, _____ per ton for all pine sawtimber, and _____ per ton for any fuelwood. A **down payment of \$5,000.00 will be made within ten (10) business days of the accepted bid date.** This money will go toward payment as the timber is being harvested. Once this amount has been harvested, stumpage will be paid in full weekly to the State Lands Coordinator based on the rates bid by product with **hardwood pulpwood being paid for at the rate of \$2.50/ ton** as stated in the Invitation to Bid.
- (3) Except as provided, current contract rates or required deposits are required when the harvest is released for cutting by the Department.
- (4) The Commonwealth of Virginia (DBHDS)/Eastern State Hospital guarantee the title to said timber and to defend it against any and all claims for taxes, mortgages or other legitimate encumbrances at its own expense. However, title to all forest products shall remain with the Commonwealth of Virginia until payment has been made in full based on measured or weighted volume for products removed on a weekly basis.
- (5) The Department, through agreement with the Commonwealth of Virginia (DBHDS)/Eastern State Hospital, hereby expressly grants to the Purchaser the right of ingress and egress across to and upon the sale area identified on the attached map (Attachment A).

- (6) When required, the Commonwealth of Virginia (DBHDS)/Eastern State Hospital maintains responsibility for acquiring easements or use agreements of any private roads within the sale area.
- (a) **Operations to not impact the operations of the contractor performing work to replace the existing sewer line in a separate area of the property.**
- (7) Because of the nature of operating on property that actively provides medical support and assistance to those with behavioral health and other disabilities and where those served by DBHDS may be present. The Purchaser agrees to adhere to the following requirements when operating on DBHDS Property. All purchaser's employees, contractors, or subcontractors being utilized to harvest the timber must submit to the following:
- (a) Employees and contractors are not allowed to interact with patients served by the facility
- (b) Limit operations on the property to operating from dawn to dusk throughout the contract term—Monday through Friday.
- (c) Limit egress and ingress to the harvested area to jointly located designated routes.
- (d) No alcohol, drugs, or visible use of tobacco products is allowed on the property.

ARTICLE II

- (1) No timber shall be cut until a contract is signed by both parties, and within 10 business days of bid acceptance. **The bid deposit of five thousand dollars (\$5,000.00) made payable to the "Treasurer of Virginia" accompanying the Purchaser's successful bid will serve as a performance bond for the duration of this contract. The Purchaser understands that this performance bond will be refunded upon the successful completion of the harvesting provisions of this contract.** Furthermore, it is understood that forfeiture of this deposit can occur for noncompliance of same provisions.
- (2) **A down payment of \$5,000.00 within ten (10) business days of the accepted bid date.** This money will go toward payment as the timber is being harvested. In order to document the volume harvested (in tons), load documentation will be required to be submitted from the beginning of harvest on a weekly basis to State Lands Coordinator Ed Stoots. As wood is harvested, load documentation (date, ticket number, product identification, and weight in tons) with accompanying checks made payable to the "Treasurer of Virginia" for the volume harvested will be submitted weekly to the Virginia Department of Forestry at 900 Natural Resources Drive, Suite 800, Charlottesville, VA, 22903. Documentation will specify the product removed (pulpwood, or sawtimber) and the weight for each product in tons.
- (3) The Purchaser agrees to notify State Lands Coordinator Ed Stoots at 540-492-0152 and/or the local Department of Forestry **New Kent Regional Office located 11301 Pocahontas Trail , Providence Forge, Va. 23140 (804) 966-5092 (office)** or Jeremy Falkenau 540-680-9209 (cell) within three (3) working days prior to the commencement of harvest activities.
- (4) Unless a written extension of time is granted by the Department, or barring forfeiture of cutting rights for noncompliance of contract provisions, all stumpage sold hereunder shall be removed within 12 months of a fully executed contract unless an extension is granted in writing. Said termination date shall be **December 31, 2020**.
- (5) The boundaries of the harvest area, or any harvest unit thereof, are shown on the attached map (Attachment A) that is made a part hereof, and where designated on the ground by the Department and approved to meet the anticipated needs of the parties. Approximate acreages are stated by harvest area or unit but are not guaranteed. Also shown on attached map (Attachment A), stream courses (if any) identified that may require various limits of care that have been identified and marked on the ground, and other sensitive areas (if any) that might require limits of care. Block/Unit boundaries are designated by three (3) orange/red slash marks facing into the unit to harvest unless said boundaries are bordering roads or power lines.
- (6) The Purchaser shall designate in writing, unless otherwise agreed to, a representative who is authorized to receive notices in regard to performance under this contract and take related action. Such designation should occur prior to the actual harvest of any timber.
- (7) Prior to moving off-road equipment onto the harvest area, Purchaser shall power wash equipment before entering the project area in order to limit the spread or import of noxious weeds onto the harvest area. Off-road equipment is defined as all logging and construction machinery, except log trucks, chip vans, service vehicles, water trucks, cars, and similar vehicles. Exception would be for a Purchaser moving into another area as part of the overall harvest area.

ARTICLE III

- (1) Timber harvested hereunder shall be felled, skidded and concentrated in such manner as to cause the least possible waste and the least amount of damage to any designated leave trees, streams, creeks, ditches, springs and soils. The Department of Forestry will provide the Purchaser a Pre-Harvest Plan prior to the start of Purchaser's operations.
 - (a) Stumps shall be cut in such manner as to cause the least possible waste and not higher than 8 inches above ground level; except on misshapen trees, or other adverse conditions such as exposed or defective trees where cutting below 8 inches is not practical.
 - (b) The Purchaser agrees that the logger performing the thinning operation will complete a timber harvest contract removal record provided by the Department of Forestry. This form will serve to record the date, product and destination of each load. This will be documented before the load leaves the tract. This record will be submitted to the Department's inspector on a weekly basis.
 - (c) All trees (live or dead) sold hereunder shall be utilized as low in diameter in the tops as may be practical. Volume to be removed from the entire harvest area is estimated at **1,246.73 tons of mixed hardwood and pine pulpwood and 164,942 board feet of pine & hardwood sawtimber**, but such volume is estimated and not guaranteed.
 - (d) All designated merchantable trees will be cut within the boundaries of the designated harvest area, those trees as designated as trees marked with an orange / red painted band in Units 1, 4, and 5; or those trees by designation to harvest within Unit 2 and stated above within Article 1 Provision #1. Excessive damage to leave trees (more than 10% of the residual stems with bark damage) as a result of the harvest operation will be assessed a penalty of three times the stumpage rate of this contract.
 - (e) All trees not designated to be left shall be felled within the cutting boundaries of the harvest area. Logging debris accumulated outside the harvest area shall be pulled back within the harvest area unless otherwise specified by the Department, chipped and removed from the site.
 - (f) No trees, tops, limbs or logging debris will be left in streams, creeks, vernal pools, drainage ditches or springs. Streamside Management Zones (SMZs) and/or Equipment Exclusion Zones (if needed) have been identified and marked on the ground with blue paint and are designated by their location if present on the attached map (Attachment A).
 - (g) The Purchaser and the Department shall mutually lay out the designated system of temporary roads (if needed) over which the timber sold hereunder shall be removed and all skidding activities will be concentrated to flow into these temporary roads. Decking along existing (non-State or locality) permanent roads is allowed, but the road must remain open at all times, and no skidding is allowed on any State or Locality permanent roads. All temporary roads are required to be rehabilitated immediately following the harvest. NO permanent road construction is allowed without advanced approval from the Department. **Access to Unit 2 shall be via a skid trail or temporary road originating from Unit 4 and will require a temporary bridge to cross the creek. Said trail/road is designated on the ground with three (3) yellow dots in both directions on the proposed trail/road and whose approximate location is shown on the map.**
 - (h) Any trees designated for leave that are mutually determined as needing to be removed due to log landing locations, temporary roads, skid trails, or system/permanent road improvements shall be marked by the Department in yellow paint and shall be paid for at the stumpage rates identified for this contract.
 - (i) The Department and the Purchaser shall mutually agree to suspend logging activities during such time as these activities would result in detrimental consequences to forest soils during prolonged periods of inclement weather.
 - (j) All right, title, and interest in and to any included timber shall remain with the Department and DBHDS/Eastern State Hospital until it has been paid for and removed from the harvest area, at which time title shall vest to the Purchaser. Title to any included timber that has been paid for but not removed from the harvest area prior to

Termination Date shall remain with the Department and DBHDS/Eastern State Hospital being represented by the Department.

- (k) In the event the included timber to which the Department and DBHDS/Eastern State Hospital holds title to is destroyed, the Department shall make an appraisal to determine for each product/species the difference between the appraised value immediately prior to the loss and the appraised value after the loss. The Purchaser shall not be obligated to accept and pay for timber that is destroyed or damaged except through written agreement. Damages to timber would include events such as fire, wind, flood, or similar cause but does not include damage caused by the Purchaser's operations or those of any subcontractor.
- (2) Timber harvested by the Purchaser from standing trees shall be removed in such a manner as to cause the least possible damage to the existing main haul/access/State roads and create no public hazard at entrance ways to primary and secondary Virginia highways. Purchaser shall obtain any VDOT entry permits at Purchaser's expense. Entry permits are required.
- (a) Access to the harvest area is adequate and main hauls will be confined to this system for all the Purchaser's workers, materials, subcontractors, and logging equipment including transport trucks necessary for the removal of said timber; the right to designate or approve, or improve the location of any new road across DBHDS/ Eastern State Hospital land is specifically reserved. Damaged to paved roads found on the property by Purchaser's operations shall be repaired by the Purchaser at their expense.

All such forested roads with the exception of skidding roads constructed by the Purchaser and all existing roads within the timber harvest area shall be left in passable condition (usable by pickup truck) during and upon completion of this contract. The vegetation plan and specifications for closure of temporary roads, landings, and other bare soil areas shall be to revegetate the areas with a mix approved by the Department and immediately after use and at proper seeding times. Landings shall be ditched and sloped so as to permit water to drain or spread, except not directly into any designated stream, and if needed ripped. Temporary roads and skid trails shall be cross drained, back bladed or other erosion controlled measures as designated or approved by the Department. Rates for mulch, lime, fertilization, and seeding shall be at the following rates unless otherwise agreed to: Mulch, if needed, at a rate of 3,000 pounds per acre (70 bales) and may be in the form of certified weed free straw, pine straw, shredded bark or other acceptable to the Department. Lime, if needed, at a rate of 2,000 pounds per acres. Fertilizer (10-10-10), if needed, will apply at a rate of 600 pounds per acre. Seed mixture shall be Orchard Grass at 65 pounds per acre, Annual Rye at 25 pounds per acre, and White Clover at 10 pounds per acre. Slashing exposed soil areas, skid trails and temporary roads with tops and branches is acceptable if coverage is adequate. The need for ripping or disking of landings or skid trails shall be determined by the conditions on the ground at the time of revegetation. Gravel or other form of stable surface such as log mats, temporary culverts, or portable bridges on temporary roads is only needed if there are soft spots or when crossing SMZs.

- (b) During and upon completion of the harvest operation, the Purchaser shall comply with the Water Quality and BMP standards listed in the "Virginia's Forestry Best Management Practices for Water Quality, Fifth Edition" issued by the Virginia Department of Forestry. The Department reserves specifically the right to request corrective action of the Purchaser in maintenance and stabilization of forest roads, trails, culvert pipes, water bars, side ditches, lead-off ditches, decks, skid trails and streams where destructive action of the Purchaser has contributed to a BMP or Water Quality problem.
- (c) The Purchaser shall guard against the unnecessary transfer of mud and debris by vehicle onto the public highway system of the Commonwealth of Virginia, whereby the same poses a threat to public safety. Furthermore, the Purchaser assumes the responsibility for the prevention and any corrective action necessary to eliminate this source of hazard should a problem develop during the harvest. Any VDOT entry permits needed will be obtained by the Purchaser at Purchaser's expenses. Entry permits are required.
- (d) All logging operators on forest lands must be trained and certified under the state's professional logger program such as Virginia's SHARP Logger Program.
- (e) Dispersed skidding will occur during the harvest so that on 85% of the area being harvested, the organic layer, topsoil, and root mat will be left in place or revegetated immediately after use and at proper seeding times as determined by the Department.

- (f) Skidding of trees should be directed in a manner that prevents creation of channels or gullies that concentrate water flow to adjacent streams, ditches, or other water bodies.
 - (g) Log landings will be located outside the riparian corridors and need approved by the Department before use. All equipment used for harvesting and hauling operations will be serviced outside of riparian corridors. Ruts will be smoothed to restore hydrology and drainage paths.
 - (h) If during harvest implementation, endangered species such as active red cockaded woodpecker, or other species that are identified, will be avoided, and all activity will cease within a ¼ mile diameter buffer around the area or roost trees, until consultation with the Department.
 - (i) All prehistoric caves, sensitive areas, and historic areas will be excluded from ground disturbance when identified. Any discovery by the purchaser of additional areas, resources, species, or members of species needing special protection shall be promptly reported to the Department and the purchaser shall immediately suspend operations within the area discovered. Any trees shall not be allowed to be felled into any areas identified.
 - (j) Purchaser shall maintain roads, commensurate with Purchaser's use.
- (3) The location of any landings, logging deck areas and stream crossings will be approved by the Department prior to development.
- (4) The Purchaser agrees to exercise the utmost care and caution to prevent the occurrence and spread of forest fires on the area for harvest and on adjoining areas. The Purchaser further agrees to observe and comply with all the forest fire laws of the State of Virginia which may be applicable. The Purchaser will be held liable for costs associated with controlling any fire caused by him/her or any subcontractor involved in the harvest operation or for fire damage to residual trees and adjacent forest stands. This includes any equipment used in the harvest or activities associated with harvest operations. Purchaser also agrees to report all fires immediately. Effective muffler systems installed by the manufacturer as standard equipment shall be maintained on exhausts of trucks, power saws and other internal combustion engines used in the Purchaser's Operations. When the Department advises the Purchaser that local fire weather conditions are becoming critical, the Purchaser shall keep with gasoline chain saws at all times 1) a fire extinguisher (A:B:C Dry Chemical, 5 lb. min.); and 2) a Standard Grade Round point Long-handled shovel (48" min.), and/or a Standard Grade Long-handled Fire Rake (48" min.) and take precautionary measures requested by the Department. Any equipment furnished by the Department shall be stored in sealed boxes provided for this purpose and shall be transported to locations in the immediate vicinity of current logging and milling operations on Harvest Area. The Department shall be reimbursed for any damage to or loss of fire-fighting equipment furnished by the Department, which occurs on Negligently-Caused Fires or as a result of using equipment for unauthorized purposes.
- (5) The Purchaser shall limit or restrict operations in accordance with the Fire Danger Rating schedule shown below. The Department will determine fire danger ratings by using the National Fire Danger Rating System. The Department shall notify the Purchaser of predicted fire danger that may limit or restrict operations. In all cases, the actual weather elements shall govern over the predicted weather elements in determining Fire Danger. Fire danger ratings are based on a severity index from A (low) to E (highest).

Fire Danger Rating:	Limitations or Restrictions on Purchaser Operations:
A to C:	Normal fire precautionary operations
C+ to D (Very High)	Department may suspend any or all of Purchaser's operations.
E (Extreme)	In addition to above restrictions, internal combustion engines or other spark-producing equipment shall not be operated within any areas of the timber sale without specific written approval by the Department.

- (6) So far as practicable, the Purchaser shall protect specified roads and other improvements (such as State or Private roads, trails, telephone lines, ditches, fences, and culverts), along with any improvements not owned by the Department. Purchaser shall protect all known survey monuments, witness corners, reference monuments, signs, and bearing trees. Any damage to specified roads or other improvements shall be repaired and replaced by the Purchaser and at their costs.

- (7) Areas known by the Department and needing special protection of plants, animals, cultural resources, and/or cave resources (if known) are shown on Attachment A and/or identified on the ground, and shall be avoided by wheeled or tracked machines, nor will trees be allowed to be felled into such areas unless agreed to in advance. If additional areas needing special measures for protection are discovered after the contract is signed those measures will/may be revised or newly prescribed in which case timber volumes and values may be adjusted based upon the timber contracted values and volumes by product. Any discovery by the Purchaser of additional areas, resources, species, or members of species needing special protection shall be promptly reported to the Department.
- (8) If Purchaser maintains storage facilities for oil, gas, or oil products on the harvest area, Purchaser shall take appropriate preventive measures to ensure that any spill of such oil, gas, or oil products does not enter any stream or other water of the Commonwealth. If Purchaser maintains a total of oil or oil products storage in excess of 1,320 gallons in containers of 55 gallons or greater, Purchaser shall prepare a Spill Prevention Control and Countermeasures Plan. Such plan shall meet applicable EPA requirements including certification by a registered professional engineer.

Purchaser shall also notify the Virginia Department of Emergency Management Response Center, as well as the Virginia Department of Environmental Quality, and the Department's project manager of all releases of hazardous substances on or in the vicinity of the harvest area that are caused by the Purchaser and/or the Purchaser's employees, agents, subcontractors, or their employees or agents, directly or indirectly, as a result of Purchaser's operations.

ARTICLE IV

- (1) The Department reserves the right to postpone timber removal under terms of this contract for gross noncompliance with the agreed upon provisions herein, to the extent, however, that in case of dispute over the terms of this agreement, the Department and the Purchaser agree to accept the decision of an arbitration board of three selected persons. Each of the contracting persons will select one person and the two selected will select a third to form this board. In the event a satisfactory decision is not reached, appeal to the local Circuit Court is available. The Department may also interrupt or cancel harvesting operations due to a court order or other legal sanction. The Department reserves the right to modify, cancel, or suspend the contract to prevent environmental degradation or resource damage, including, but not limited to, harm to habitat, plants, animals, cultural resources, or cave resources. Suspension might also incur to ensure consistency with land and resource management plans.

ARTICLE V

- (1) The Purchaser's signature within this contract certifies that this purchase is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a bid for the same material and is in all respects, fair and without collusion or fraud. The Purchaser understands that collusive bidding is a violation of the Virginia Governmental Fraud Act – Section 18.2-498.1 and federal law and can result in fines, prison sentences, and civil damage awards.
- (2) The Purchaser shall obtain certifications from its Subcontractor regarding debarment, suspension, ineligibility, and voluntary exclusion, including additional subcontractors obtained after award of this contract. Purchaser may rely upon certification of a prospective Subcontractor that is not proposed for debarment, debarred, suspended, ineligible, or voluntarily excluded from participating in covered transactions or timber sales. Purchaser shall keep certifications of Subcontractors on file until timber sale termination date.
- (3) The Purchaser, and all solicitations and advertisements for employees placed by or on behalf of the Purchaser, will state that such Purchaser is an equal opportunity employer.
 - (a) The Purchaser will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bon-a-fide occupational qualification reasonably necessary to the normal operation of the Purchaser.
 - (b) The Purchaser agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.
- (4) DRUG, FIREARMS, TOBACCO FREE WORKPLACE: The Purchaser acknowledges and certifies that it understands that the following acts by the Purchaser, its employees, and/or agents performing services on State property are prohibited:
 - (a) The unlawful manufacture, distribution, dispensing, possession or use of alcohol or other drugs; and

- (b) Any impairment or incapacitation from the use of alcohol or other drugs (except the use of drugs for legitimate medical purposes).
- (c) No firearms of any kind are allowed on State Property, neither concealed nor open carry.
- (d) No visible use of any tobacco product is allowed while on the property

The Purchaser further acknowledges and certifies that it understands that a violation of these prohibitions constitutes a breach of contract and may result in default action being taken by the Commonwealth in addition to any criminal penalties that may result from such conduct.

- (5) The Purchaser certifies and warrants that by his/her signature within this contract that he/she has neither offered nor received any kickbacks from any other bidder in connection with his/her bid on this solicitation. A kickback is defined as an inducement for the award of a contract, in the form of any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged. Further, no person shall demand or receive any payment, loan subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.
- (6) No bidder shall confer on any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.
- (7) The Purchaser shall indemnify, and hold harmless the Commonwealth of Virginia (DBHDS)/Eastern State Hospital, and the Department of Forestry and its officers, agents and employees from any claims, suits, liability or damage arising from or caused by negligence on the part of the Purchaser in harvesting the timber designated for removal herein conveyed.
- (8) The Department is prevented from doing business with corporations or their principals that have been convicted of a felony criminal violation under any State law within the preceding 24 months and/or have unpaid State Tax Liability. Appropriate certifications will be provided by the Purchaser when required.
- (9) The required bid deposit / performance bond shall protect the Commonwealth, the Virginia Department of Forestry, DBHDS/Eastern State Hospital in event the Purchaser defaults before a contract is fully executed. The deposit will be held by the Department until the harvest has been completed and the Purchaser has fulfilled all contracted provisions.
- (10) This contract may not be assigned, sublet or transferred without the written consent of the Department.

WITNESS:

_____ PURCHASER

_____ TELEPHONE NUMBER

Approved at Charlottesville, VA under the above conditions _____, 2019

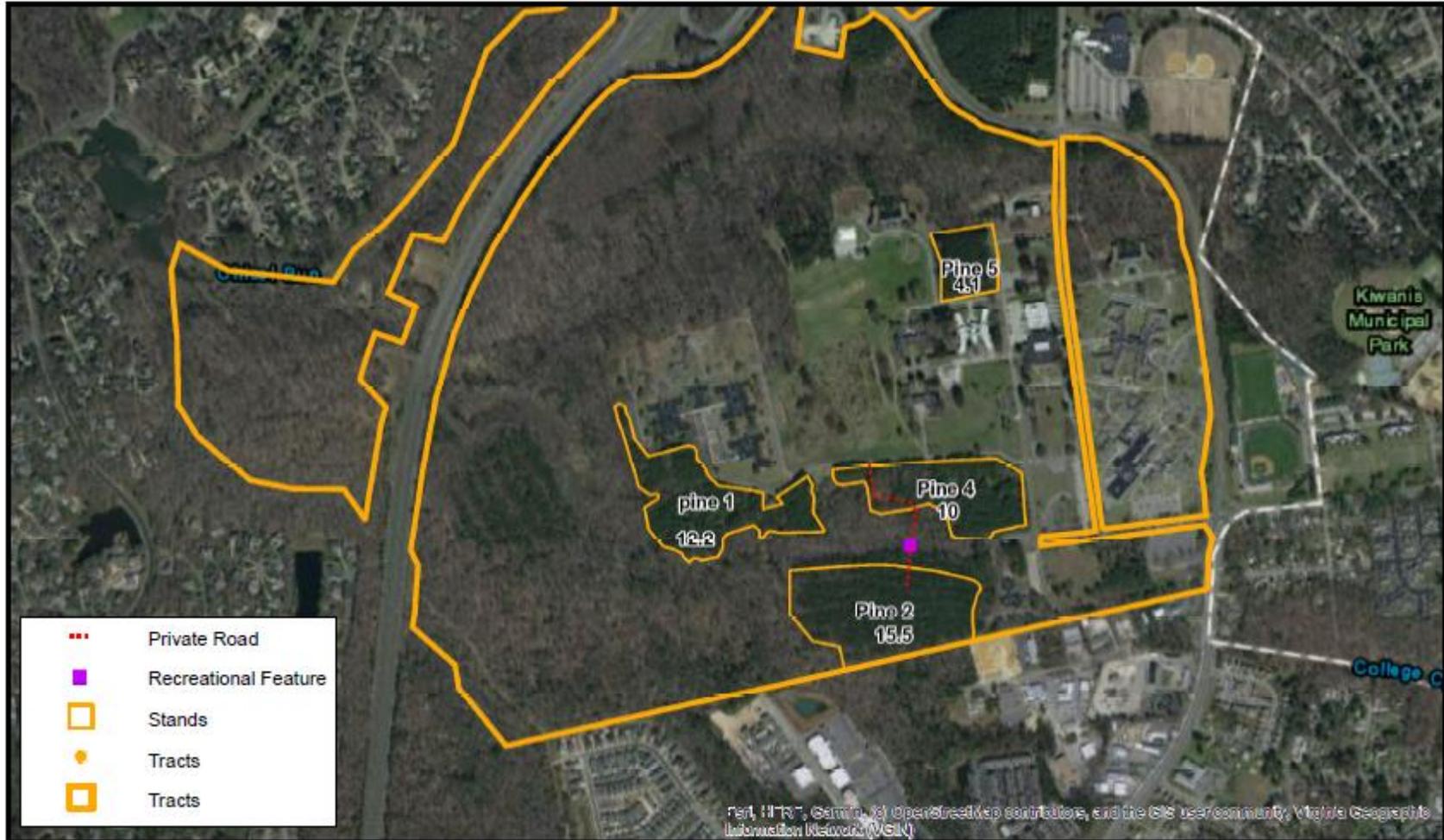
_____ STATE LANDS COORDINATOR

ATTACHMENT A



Eastern State Hospital Pine Thinning Sale Area

Jeremy Falkenau
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10/15/2019



While VDOF has attempted to ensure that the features shown on this map are accurate, VDOF did not perform survey work or otherwise verify information provided to it in preparing this map and all features and acreages shown are approximate. VDOF expressly disclaims all warranties of any type concerning this map, and any use of the map assumes you understand and agree with this disclaimer.

